

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CRYSTALLEX INTERNATIONAL CORP.,

Plaintiff,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

Misc. No. 17-151-LPS

**ANSWERING BRIEF OF ACL1 INVESTMENTS LTD.,
ACL2 INVESTMENTS LTD., LDO (CAYMAN) XVIII LTD.,
AND OI EUROPEAN GROUP B.V. IN RESPONSE TO APRIL 5, 2025 ORDER**

Additional Judgment Creditors ACL1 Investments Ltd., ACL2 Investments Ltd., LDO (Cayman) XVIII Ltd. (together, “ACL”), and OI European Group B.V. (“OIEG”) respectfully submit this answering brief in response to the Court’s Oral Order dated April 5, 2025 (D.I. 1668, the “April 5 Order”).¹

Questions 1 and 2 posed in the April 5 Order concern the closing certainty of Red Tree’s bid relative to that of the Gold Reserve Consortium’s bid. The difference in closing certainty appears to be significant, as explained by Red Tree (D.I. 1675), the Special Master (D.I. 1679), and others (*e.g.*, Crystallex International Corp., D.I. 1676). Specifically, the Consortium’s financing commitment letters, according to the Special Master, “present closing contingencies that could turn on the outcome of the PDVSA 2020 Bondholder litigation.” D.I. 1660 at 3. Contingencies in financing translate to contingencies in closing, as Crystallex correctly observes:

¹ “Red Tree” means Red Tree Investments, LLC. “Gold Reserve Consortium” has the meaning ascribed to it in D.I. 1680. Capitalized terms not defined herein have the meanings ascribed to them in the Sale Procedures Order (D.I. 481).

“The Consortium lacks the resources to close without financing.” D.I. 1676 at 2.

The Consortium has not satisfactorily addressed its bid’s apparent lack of closing certainty relative to Red Tree’s bid. While the Consortium argues that the Special Master and this Court should give no weight to a settlement with the PDVSA 2020 Bondholders, it has presented no evidence that its own bid and financing do not create a risk of closing by being predicated on a particular outcome in the PDVSA 2020 Bondholder litigation, rather than a structure that could close regardless of whether the PDVSA 2020 Bondholders’ pledge is upheld. The apparent risk posed by the Consortium’s bid counsels against selecting it as the stalking horse bid. The purpose of a stalking horse bid is to create a realistic starting point for other bidders. Selecting a bid with fundamental closing risks could chill bids from others with greater certainty.

For these reasons, ACL and OIEG support the Special Master’s recommendation of Red Tree’s bid as the stalking horse bid, subject to the Consortium demonstrating that its bid would close even in the face of opposition by the PDVSA 2020 Bondholders. Such demonstration could include, for example, disclosing financing commitment letters that provide financing independent of the outcome of any PDVSA 2020 Bondholder litigation.

Dated: April 11, 2025

Respectfully submitted.

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